

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BILLY DRIVER, JR.,

No. C 10-2226 SI (pr)

Plaintiff,

**ORDER**

v.

B. HEDRIC, warden; et al.,

Defendants.  
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Plaintiff has requested for a third time that counsel be appointed to assist him in this action. A district court has the discretion under 28 U.S.C. §1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional circumstances. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See id. Neither of these factors is dispositive and both must be viewed together before deciding on a request for counsel under § 1915(e)(1). Here, exceptional circumstances requiring the appointment of counsel are not evident. The request for appointment of counsel is DENIED. (Docket # 34.)

Plaintiff sent a letter requesting a copy of the court's Local Rules. Copies of the Local Rules were mailed to prisons throughout California, and plaintiff may be able to review a copy of the Local Rules at his prison's law library.

IT IS SO ORDERED.

Dated: November 9, 2011



SUSAN ILLSTON

United States District Judge